

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION**

HOMER TED COX and  
BARBARA COX

\* CIVIL ACTION NO. \_\_\_\_\_

VERSUS

\* JUDGE \_\_\_\_\_

THE UNITED STATES OF AMERICA  
AND MILES G. CLAYTON, M.D.

\* MAGISTRATE JUDGE \_\_\_\_\_

**COMPLAINT**

This complaint of HOMER TED COX and his wife, BARBARA COX, residents and domiciliaries of Shreveport, Caddo Parish, Louisiana, persons of the full age of majority, respectfully represents as follows:

1.

The following parties are made defendants herein:

**THE UNITED STATES OF AMERICA**, as the party legally responsible for the Overton Brooks Veterans' Administration Medical Center, 510 East Stoner Avenue, Shreveport, Louisiana 71101; and

**MILES G. CLAYTON, M.D.**, a physician licensed to practice by the State of Texas and who was and is practicing in the State of Louisiana, at the Veterans' Administration Medical Center, 510 East Stoner Avenue, Shreveport, Louisiana.

2.

The defendants are individually liable unto petitioners for any and all such damages as are reasonable in the premises.

3.

Mr. Homer T. Cox is a veteran on 70% combat disability who receives his medical care at the Veterans' Administration Medical Center in Shreveport, Louisiana.

4.

In late April 2008 Mr. Cox first noticed an impairment in his vision that included both "floaters" and a feeling of a red "film" that impaired his vision.

5.

Mr. Cox requested from the VA Medical Center an ophthalmology evaluation and was provided with an appointment on May 7, 2008, with Miles G. Clayton, M.D., Chief of the Department of Ophthalmology at the VA Medical Center in Shreveport.

6.

Dr. Clayton evaluated Mr. Cox and diagnosed him as suffering with Nonarteritic Anterior Ischemic Optic Neuropathy (NAION), advised him that there was no treatment, and further advised him that it was inevitable that he would lose all vision in his right eye.

7.

Dr. Clayton scheduled Mr. Cox for visual field testing which was performed at the VA June 24, 2008.

8.

Mr. Cox obtained a second opinion from a private ophthalmologist in Shreveport, Bryan Vekovius, M.D., on August 14, 2008.

9.

On August 14, 2008, Dr. Vekovius diagnosed Mr. Cox as suffering from a detached retina which had apparently been detached for weeks.

10.

Dr. Vekovius found no evidence of NAION and immediately referred Mr. Cox to Wilson B. Baber, M.D., a retinal specialist in Shreveport. Dr. Baber saw Mr. Cox the following day, August 15, 2008, and confirmed the diagnosis of detached retina.

11.

Mr. Cox underwent surgical repair of the retina by Dr. Baber, but was advised by him that the long delay in diagnosing the detached retina would likely result in a poor outcome and permanent loss of substantial vision.

12.

The poor outcome predicted by Dr. Baber is precisely what occurred and Mr. Cox has suffered a permanent loss of substantial vision in his right eye as a result of Dr. Clayton's failure to correctly diagnose and appropriately treat the detached right retina.

13.

Plaintiffs show that Dr. Clayton was negligent and failed to comply with the appropriate

standard of care during his treatment of Mr. Cox from May 7, 2008, through August 14, 2008, in reaching an incorrect diagnosis of NAION, in failing to correctly diagnose the detached right retina, and in failing to appropriately treat the detached right retina, causing Mr. Cox to suffer harm that he would not have suffered in the absence of that negligence, including a poor outcome from the surgery that was eventually performed by another doctor, permanent loss of substantial vision in his right eye, and loss of the opportunity for an improved recovery.

14.

Mrs. Barbara Cox has suffered general damages of loss of consortium due to her husband's injury.

15.

On August 4, 2009, a claim was filed with the Division of Administration pursuant to LSA-R.S. 40:1299.41, *et seq.* and LSA-R.S. 40:1299.39, *et seq.*, naming as defendants Miles G. Clayton, M.D., and Louisiana State University Health Sciences Center in Shreveport.

16.

By letter dated August 13, 2009, the Louisiana Patient's Compensation Fund notified counsel that neither Miles G. Clayton, M.D., nor LSUHSC were qualified under the provisions of the Louisiana Medical Malpractice Act.

17.

By letter dated August 14, 2009, the Division of Administration notified counsel that Louisiana State University Health Sciences Center - Shreveport is a healthcare provider qualified

under the provisions of the Malpractice Liability for State Services Act, and confirming that at the time of the incident on which the medical malpractice claim is based Dr. Miles G. Clayton was working for the Department of Veterans Affairs so that he was deemed qualified under the Federal Tort Claims Act; by letter dated September 17, 2009, counsel dismissed the claim against LSUHSC-Shreveport.

18.

By letter dated August 13, 2009, the Federal Tort Claim was filed on behalf of Mr. and Mrs. Cox.

19.

By letter dated October 1, 2010, from the Office of Regional Counsel for the Department of Veterans Affairs, counsel for Mr. and Mrs. Cox was notified that their claim was denied.

**WHEREFORE, PETITIONERS PRAY** that the defendants herein be served with a certified copy of this complaint, cited to appear and answer same, and that after due delays and legal proceedings are had that there be judgment herein in favor of the petitioners, **HOMERT T. COX** and **BARBARA COX**, and against the defendants, **THE UNITED STATES OF AMERICA** and **MILES G. CLAYTON, M.D.**, in an amount reasonable under the premises, \$500,000.00, together

with legal interest thereon as allowed by law, until paid, and for all costs of these proceedings, and for full, general, and equitable relief.

Respectfully submitted,

/s/ John L. Hammons

JOHN L. HAMMONS, #6485 (Trial Attorney)

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